

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	CASE NO. 8:03CR336
)	
Plaintiff,)	
)	MEMORANDUM
vs.)	AND ORDER
)	
KEVIN P. McCONNELL,)	
)	
Defendant.)	

This matter is before the Court on the Defendant's Motion to Vacate and Correct Sentence under 28 U.S.C. § 2255, ECF No. 91.

The Court notes that the Defendant filed his first § 2255 Motion, ECF No. 69, on January 31, 2005, and that motion was denied by the Court on June 8, 2005, at ECF No. 80.

When a second § 2255 motion is filed:

A second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals to contain—

- (1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or
- (2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.

28 U.S.C. § 2255.

Without the required certification from the Eighth Circuit, this Court cannot consider the merits of the Defendant's second § 2255 motion and the pending motion will be denied.

IT IS ORDERED:

1. Defendant's Motion to Vacate and Correct Sentence under 28 U.S.C. § 2255,
ECF No. 91, is denied; and
2. A separate Judgment will be issued.

DATED this 22nd day of June, 2017.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge